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or fully released from liability, as determined by the Executive Vice President, CCC.

(c) The provisions of this section will be applicable in addition to any liability that arises under a criminal or civil law, regulation, or other provision of law.

§ 1430.424 Violations of highly erodible and wetland conservation provisions.

The provisions of 7 CFR part 12 apply to this part.

§ 1430.425 Violations regarding controlled substances.

The provisions of 7 CFR 718.6 apply to this part.

PART 1434—NONRECOURSE MARKETING ASSISTANCE LOANS AND LOAN DEFICIENCY PAYMENTS FOR HONEY

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AUTHORITY: 7 U.S.C. 7231–7237, 7931–7936, and 9031–40; and 15 U.S.C. 714b and c.

SOURCE: 66 FR 15177, Mar. 15, 2001, unless otherwise noted.

§ 1434.1 Applicability.

(a) This part specifies the terms and conditions of Commodity Credit Corporation (CCC) nonrecourse marketing

assistance loan (MAL) and loan deficiency payment (LDP) Programs for honey. MAL gains and LDPs for honey are limited by the adjusted gross income provisions specified in part 1400 of this chapter.

(b) Producers must comply with all provisions of this part and part 1421 of this chapter.

[74 FR 15656, Apr. 7, 2009, as amended at 80 FR 139, Jan. 2, 2015; 86 FR 70708, Dec. 13, 2021]

§ 1434.2 Administration.

(a) The regulations of this part will be administered under the general supervision of the Executive Vice President, CCC, and are carried out in the field by Farm Service Agency (FSA) State and county committees.

(b) State and county committees, representatives and employees thereof, do not have the authority to modify or waive any of the provisions of the regulations of this part.

(c) The State committee will take any action required by the regulations of this part that has not been taken by the county committee. The State committee will also:

(1) Correct, or require a county committee to correct, any action taken by such county committee that is not in accordance with the regulations of this part; or

(2) Require a county committee to withhold taking any action that is not in accordance with the regulations of this part.

(d) No provision or delegation herein to a State or county committee will preclude the Executive Vice President, CCC, or a designee, from determining any question arising under the program or from reversing or modifying any determination made by a State or county committee.

(e) The Deputy Administrator for Farm Programs, FSA, may authorize State and county committees to waive or modify deadlines and other program requirements in cases where timeliness or failure to meet such other requirements does not affect adversely the operation of the program.

(f) An approving official of CCC may execute loans and related documents only under the terms and conditions determined and announced by CCC.

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Any such document that is not executed in accordance with such terms and conditions, including any purported execution before the date authorized by CCC, will be null and void unless affirmed by the Executive Vice President, CCC.

[66 FR 15177, Mar. 15, 2001, as amended at 80 FR 139, Jan. 2, 2015]

§ 1434.3 Definitions.

The definitions in this section are applicable for all purposes of program administration. The terms defined in part 718 of this title are also applicable except where those definitions are inconsistent with the definitions in this section or for purpose of program instruments created under this part.

Approving official is a representative of CCC who is authorized by the Executive Vice President, CCC, to approve loan documents prepared under this part.

Calling a loan is accelerating or moving forward the maturity date of an outstanding MAL. A MAL can be called when the terms and conditions of the MAL note and security agreement are violated, a producer incorrectly certifies a loan quantity or makes any fraudulent representation with respect to obtaining a loan, removing or disposing of a farm-stored commodity pledged as collateral for a loan without authorization, to protect CCC's interest, or in emergency situations.

Charge is a fee, cost, and expense (including foreclosure costs) incident to insuring, carrying, handling, storing, conditioning, and marketing the honey and otherwise protecting the honey.

CMA is a cooperative marketing association engaged in marketing honey.

County office is the local FSA office.

Crop year is the calendar year in which honey is extracted.

Ineligible honey is honey not eligible for a MAL under this part for which ineligibility will include, but is not limited to, honey from ineligible floral sources regardless of whether the honey meets other eligibility requirements.

Intermediate Bulk Container (IBC) is a bulk container with a polyethylene inner bottle with a galvanized steel protective cage with a 275 and 330 gallon capacity and is reusable.

Loan is a nonrecourse marketing assistance loan on honey.

Loan deficiency payment (LDP) means a payment made in lieu of a MAL when the CCC-determined value, which is based on the current local price in a county, is below the applicable county loan rate. The payment is the difference between the two rates times the eligible quantity.

Nontable honey is honey having a predominant flavor of limited acceptability for table use even though such honey may be considered suitable for table use.

Person is an individual, partnership, association, corporation, estate or trust, or other business enterprise or other legal entity and, whenever applicable a State, political subdivision of a State, or any agency thereof.

Table honey is any honey having a good flavor of the predominant floral source which can be readily marketed for table use.

Representative is a receiver, executor, administrator, guardian, or trustee representing the interests of a person or an estate.

[66 FR 15177, Mar. 15, 2001, as amended at 80 FR 139, Jan. 2, 2015]

§ 1434.4 Eligible producer.

(a) To be eligible to receive an individual or joint loan or LDP under this part, a person must:

(1) Have produced honey in the United States during the calendar year for which a loan is requested and extracted on or before December 31 of such calendar year;

(2) Be responsible for the risk of keeping the bees and producing honey;

(3) Have a continuous beneficial interest in the honey from the time the honey was extracted through date of repayment of the loan;

(4) Store the honey pledged as loan collateral in eligible storage and in eligible containers that meet the requirements of §1434.7 and §1434.8, respectively; and

(5) Adequately protect the interests of CCC by providing security for a loan in accordance with the requirements in §1434.8 and by maintaining in good condition the honey pledged as security for a loan.

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(b) A person who complies with paragraph (a) of this section, who enters into a contract to sell the honey used as collateral for a loan but retains a beneficial interest in the honey and who does not receive an advance payment from the purchaser to enter into the contract unless the purchaser is a cooperative marketing association (CMA) that is eligible under paragraph (g) of this section, remains eligible for a loan.

(c) Two or more applicants may be eligible for a joint loan if:

(1) The conditions in paragraphs (a) and (b) of this section are met with respect to the commingled honey collateral stored in the same eligible containers they are tendering for a loan; and

(2) The commingled honey is not used as collateral for an individual loan that has not been repaid.

(d) Heirs who succeed to a beneficial interest in the honey are eligible for a loan if they:

(1) Assume the decedent's obligation under a loan if such loan has already been obtained; and

(2) Assure continued safe storage of the honey if such honey has been pledged as collateral for a loan.

(e) A representative may be eligible to receive a loan on behalf of a person or estate who or which meets the requirements in paragraphs (a), (b), (c), and (d) of this section and that the honey tendered as collateral by the representative, in the capacity of a representative, will be considered as tendered by the person or estate being represented.

(f) A minor who otherwise meets the requirements of this part for a loan is eligible to receive a loan only if the minor meets one of the following requirements:

(1) A court or statute has conferred the right of majority on the minor;

(2) A guardian has been appointed to manage the minor's property and the applicable loan documents are signed by the guardian;

(3) Any note signed by the minor is cosigned by a person determined by the county committee to be financially responsible; or

(4) A surety, by furnishing a bond, guarantees to protect CCC from any

loss incurred for which the minor would be liable had the minor been an adult.

(g) A CMA that the Executive Vice President, CCC, determines meets the requirements for CMA's in part 1425 of this title may be eligible to obtain a loan on behalf of those members who themselves are eligible to obtain a loan provided that:

(1) The beneficial interest in the honey must always, until loan repayment or forfeiture, remain in the member who delivered the honey to the eligible CMA or its member CMA's, except as otherwise provided in this part; and

(2) The honey delivered to an eligible CMA will not be eligible for a loan if the member who delivered the honey does not retain the right to share in the proceeds from the marketing of the honey as provided in part 1425 of this title.

[66 FR 15177, Mar. 15, 2001, as amended at 80 FR 139, 141, Jan. 2, 2015]

§ 1434.5 Eligible honey.

To be eligible for a loan, the honey must:

(a) Have been produced by an eligible producer;

(b) Have been produced in the United States during the calendar year for which a loan is requested and extracted on or before December 31 of such calendar year;

(c) Be of merchantable quality deemed by CCC to be suitable for loan; that is, the honey:

(1) Is not adulterated;

(2) Has not been scorched, burned, or subjected to excessive heat resulting in objectionable flavor, color deterioration or carmelization;

(3) Does not contain any ineligible honey floral sources; such as andromeda, bitterweed, broomweed, cajeput (melaleuca), carrot, chinquapin, dog fennel, desert hollyhock, gumweed, mescal, onion, prickly pear, prune, queen's delight, rabbit brush, snowbrush (ceanothus), snow-on-the-mountain, spurge (leafy spurge), tarweed, and similar objectionably-flavored honey or blends of honey as determined by the Director, Price Support Division, FSA. If any blends of honey contain such ineligible honey,

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the lot as a whole will be considered ineligible for loan;

(4) Does not contain excessive bees or bee parts, paint chips, wood chips, or other foreign matter; and

(5) Is not fermenting; and

(d) Be stored in acceptable containers.

[66 FR 15177, Mar. 15, 2001, as amended at 80 FR 141, Jan. 2, 2015]

§ 1434.6 Beneficial interest.

(a) To be eligible to receive MALs under this part a producer must have the beneficial interest in the honey that is tendered to CCC for a loan. The producer must always have had the beneficial interest in the honey unless, before the honey was extracted, the producer and a former producer whom the producer tendering the honey to CCC has succeeded had such an interest in the honey. Honey obtained by gift or purchase shall not be eligible to be tendered to CCC for loans. Heirs who succeed to the beneficial interest of a deceased producer or who assume the decedent's obligations under an existing loan shall be eligible to receive loans whether succession to the honey occurs before or after extraction so long as the heir otherwise complies with the provisions of this part.

(b) A producer is not be considered to have divested the beneficial interest in the honey if the producer retains title and control of the honey including the right to make all decisions regarding the tender of such honey to CCC for a loan, and the producer:

(1) Executes an option to purchase, whether or not a payment is made by the potential buyer for such option to purchase, with respect to such honey if all other eligibility requirements are met and the option to purchase contains the following provision:

“Notwithstanding any other provision of this option to purchase or any other contract, title and control of the honey and beneficial interest in the honey, as specified in 7 CFR 1434.6, must remain with the producer until the buyer exercises this option to purchase the honey. This option to purchase will expire, notwithstanding any action or inaction by either the producer or the buyer, at the earlier of:

(1) The maturity of any Commodity Credit Corporation (CCC) loan which is secured by such honey;

(2) The date the CCC claims title to such honey; or

(3) Such other date as provided in this option.”

(2) Enters into a contract to sell the honey if the producer retains title, and beneficial interest in the honey and the purchaser does not pay to the producer any advance payment amount or any incentive payment amount to enter into such contract except as provided in part 1425 of this chapter.

(c) If loans are made available to producers through an approved CMA in accordance with part 1425 of this chapter, the beneficial interest in the honey must always have been in the producer-member who delivered the honey to the CMA or its member CMA's, except as otherwise provided in this section. Honey delivered to such a CMA is not be eligible for loans if the producer-member who delivered the honey does not retain the right to share in the proceeds from the marketing of the honey as provided in part 1425 of this chapter.

(d) A producer may, before the final date for obtaining a loan for honey, re-offer as loan honey any honey that has been previously pledged if the loan was repaid with principal plus interest, the loan on such re-offered honey will have the same maturity date as the original loan.

[66 FR 15177, Mar. 15, 2001, as amended at 67 FR 64480, Oct. 18, 2002; 74 FR 15656, Apr. 7, 2009; 80 FR 139, 141, Jan. 2, 2015]

§ 1434.7 Approved storage.

(a) Loans will be made only on honey in approved storage, which will consist of a storage structure located on or off the farm that is determined by CCC to be under the control of the producer and affords safe storage for honey pledged as collateral for a loan. If the honey located in a farm storage structure is pledged as collateral that secures more than one loan, the honey must be segregated so as to preserve the identity of the honey securing such loan. Honey securing a loan must also be segregated from any honey not pledged as collateral for a loan that is stored in the same structure.

(b) Producers may also obtain loans on honey packed in eligible containers and stored in facilities owned by third parties in which the honey of more

than one person is stored if the honey that is to be pledged as collateral for a loan and that is stored identity preserved or is segregated from all other honey. Each container of the segregated quantity of honey must be marked with the producer's name, loan number, and lot number so as to identify the honey from other honey stored in the structure.

[66 FR 15177, Mar. 15, 2001, as amended at 80 FR 139, 141, Jan. 2, 2015]

§ 1434.8 Containers and drums.

(a)(1) To be eligible for assistance under this part, honey must be packed in:

- (i) CCC-approved, 5-gallon plastic containers;
- (ii) 5-gallon metal containers;
- (iii) Steel drums with a capacity not less than 5 gallons nor greater than 70 gallons, or
- (iv) Plastic Intermediate Bulk Containers (IBC's).

(2) Honey stored in plastic containers must be determined safe and secure from all possibility of contamination.

(3) Honey storage containers used for these purposes must meet requirements of the Federal Food, Drug and Cosmetic Act, as amended and other specified requirements, as determined by CCC and must be generally fit for the purpose for which they are to be used.

(4) CCC-approved 5-gallon plastic containers must hold approximately 60 pounds of honey. The containers must be free and clear of leakage and punctures and of suitable purity for food contact use and meet food storage standards as provided by CCC. Plastic containers must be new or previously used only to store honey. Plastic containers previously used to store chemicals, pesticides, or any other product or substance other than honey are ineligible for honey storage. The handle of each container must be firm and strong enough to permit carrying the filled container. The cover opening must not be damaged in any way that will prevent a tight seal. Containers that have been punctured and resealed will not be acceptable;

(5) The 5-gallon metal containers must hold approximately 60 pounds of honey, and must be new, clean, sound,

uncased, and free from appreciable dents and rusts. The handle of each container must be firm and strong enough to permit carrying the filled container. The cover and container opening must not be damaged in any way that will prevent a tight seal. Containers that are punctured or have been punctured and resealed by soldering will not be acceptable; and

(6) The steel drums must be an open type and filled no closer than 2 inches from the top of the drums. Drums must be new or must be used drums that have been reconditioned inside and outside. Drums must be clean, treated inside and outside to prevent rusting, fitted with gaskets that provide a tight seal and have an inside coating suitable for honey storage.

(7) IBC's are bulk containers with a polyethylene inner bottle and a galvanized steel protective cage, a capacity of either 275 or 330 gallons, and are reusable. IBC's must be clean, sound and provide a tight seal.

(b) Honey is not be eligible to be pledged as collateral for loans if such honey is stored in:

(1) 55-gallon steel drums having a tare weight less than 38 pounds, 30-gallon steel drums having a tare weight less than 26 pounds, or drums having removable liners of polyethylene or other materials;

(2) Bung-type drums;

(3) Bulk tanks;

(4) Containers that do not meet the specified requirements of paragraph (a) of this section or other CCC specifications or requirements.

(5) Steel drums that are severely enough dented as to cause damage to their lining, improper seal, or stacking capabilities; and

(6) Rusted drums with corroded areas.

[66 FR 15177, Mar. 15, 2001, as amended at 69 FR 52169, Aug. 25, 2004; 80 FR 139, Jan. 2, 2015]

§ 1434.9 Determination of quantity.

The amount of a marketing assistance loan or loan deficiency payment will be based on 100 percent of the net weight in pounds of such quantity that is eligible to be pledged as security for the MAL or LDP and is certified by the

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producer and verified by the county office representative in the manner prescribed by CCC. Estimates of the quantity of honey will be made on the basis of 12 pounds for each gallon of the rated capacity of the container.

[80 FR 140, Jan. 2, 2015]

§ 1434.10 Application, availability, disbursement, and maturity.

(a) A producer must, unless otherwise authorized by CCC, request MALs and LDPs at the appropriate FSA county office responsible for administering the program as provided under part 718 of this title. To receive MALs and LDPs for honey, a producer must execute a note and security agreement or LDP application on or before March 31 of the year following the year in which the honey was extracted.

(b) A producer must request a loan at the county office of the county where the honey is stored if the honey is stored at the producer's farm. A producer who requests a loan on honey stored in eligible storage other than the producer's farm, may request loans at either the county office of the county where the storage facility is located or at the county office of the county where the producer's main place of business is located. A CMA must request loans at the county office for the county in which the principal office of the CMA is located unless the State committee designates another county office. If the CMA has operations in two or more States, the CMA must file its loan applications at the county office for the county in which its principal office for each State is located.

(c) MALs will be made on the honey as declared and certified by the producer in the manner specified by CCC at the time the honey is pledged as collateral for a MAL. The producer is also required to declare and certify the class of honey (table or non-table) and floral source of the honey in the manner specified by CCC when the honey is pledged as collateral for a MAL.

(d) The request for a loan will not be approved until all producers having an interest in the honey sign the note and security agreement and CCC approves such note and security agreement. The disbursement of loans will be made by

county offices on behalf of CCC, for honey that:

(1) Has been extracted;

(2) Is in eligible storage; and

(3) Has not been blended or mixed with ineligible honey.

(e) MALs mature on demand, but not later than the last day of the ninth calendar month following the month in which the note and security agreement was approved.

(1) When the maturity date falls on a non-workday for county offices, CCC will extend the final date to the next workday. Before the date specified in paragraph (a) of this section, a producer may re-offer as MAL collateral any eligible honey that has been offered previously for a MAL if the previous MAL has been repaid at principal plus interest only.

(2) The maturity date of any MAL may not be extended.

(f) If, after a loan is made, CCC determines that the producer or the honey collateral is not in compliance with any of the provisions of this part, the producer must refund the total amount disbursed under loan and charges plus interest, including late payment interest as provided in part 1403 of this title.

[66 FR 15177, Mar. 15, 2001, as amended at 67 FR 64481, Oct. 18, 2002; 80 FR 140, 141, Jan. 2, 2015]

§ 1434.11 Fees and interest.

(a) A producer must pay a nonrefundable MAL service fee. The MAL service fee will be the smaller of one-half of 1 percent (.005) times the gross MAL amount or \$45 per MAL plus \$3 for each storage structure over one.

(b) Interest that accrues with respect to a loan will be determined in accordance with part 1405 of this chapter.

[66 FR 15177, Mar. 15, 2001, as amended at 80 FR 140, 141, Jan. 2, 2015]

§ 1434.12 Liens.

(a) CCC's security interest in the honey pledged as collateral is first and superior to all other security interests.

(b) The county office will file or record, as required by State law, all financing statements needed to perfect a security interest in honey pledged as collateral for a loan. The cost of filing and recording will be for the account of CCC.

(c) If there are any other security interests, liens, or encumbrances on the honey, CCC will obtain waivers that fully protect the interest of CCC even though the security interests, liens, or encumbrances are satisfied from the loan proceeds. No additional security interests, liens, or encumbrances will be placed on the honey after the loan is approved.

[66 FR 15177, Mar. 15, 2001, as amended at 80 FR 141, Jan. 2, 2015]

§ 1434.13 Transfer of producer's interest prohibited.

Absent written approval from CCC, the producer may not transfer either the remaining interest in, or right to redeem, the honey pledged as collateral for a MAL on honey nor may anyone acquire such interest or right. Subject to the provisions of § 1434.17, a producer who wishes to liquidate all or part of a MAL by contracting for the sale of the honey must obtain written approval from the county office on a form prescribed by CCC to remove a specified quantity of the honey from storage. Any such approval will be subject to the terms and conditions in the applicable form, copies of which may be obtained by producers at the FSA county office.

[80 FR 140, Jan. 2, 2015]

§ 1434.14 Loss or damage.

The producer is responsible for any loss in quantity or quality of the honey pledged as collateral for a loan. CCC will not assume any loss in quantity or quality of the loan collateral.

[66 FR 15177, Mar. 15, 2001, as amended at 80 FR 141, Jan. 2, 2015]

§ 1434.15 Personal liability..

(a) As part of the application for an individual or joint MAL or LDP, each producer agrees that:

(1) By signing the MAL note and security agreement, the producer must:

(i) Provide correct, accurate, and truthful certifications and representations of the loan quantity and all other matters of fact and interest; and

(ii) Not remove or dispose of any amount of the loan quantity without prior written approval from CCC in accordance with this section.

(2) That violation of the terms and conditions of this part and the MAL note and security agreement will cause harm or damage to CCC in that funds may be disbursed to the producer for a MAL quantity that is not actually in existence or for a quantity for which the producer is not eligible.

(b) For the purposes of this section, violations include any failure to comply with this part or the loan agreement, including but not limited to any incorrect certification or:

(1) Unauthorized removal of honey, which includes, but is not limited to, the movement of any loan quantity of honey from the storage structure in the commodity was stored when the loan was approved to any other storage structure whether or not such structure is located on the producer's farm without prior written authorization from the county committee in accordance with § 1434.14;

(2) Any unauthorized disposition, which includes, but is not limited to, the conversion of any loan quantity pledged as collateral for a loan without prior written authorization from the county committee in accordance with this section.

(c) The producer and CCC agree that it will be difficult, if not impossible, to prove the amount of damages to CCC for conduct that is in violation of this section. Accordingly, if the county committee determines that the producer has engaged in any such violation, liquidated damages will be assessed in addition to any loan refund and other charges that may be due. The amount of such damages will be computed using the quantity of honey that is involved in the violation and the following formula. If CCC determines the producer:

(1) Acted in good faith when the violation occurred, liquidated damages will be assessed by multiplying the quantity involved in the violation by 10 percent of the loan rate applicable to the loan note for each offense.

(2) Did not act in good faith with regard to the violation, or for cases other than the first or second offense, liquidated damages will be assessed by multiplying the quantity involved in the violation by 10 percent of the loan rate applicable to the loan note.

(d) For liquidated damages assessed in accordance with paragraph (c)(1) of this section, the county committee will:

(1) Require repayment of the loan principal applicable to the loan quantity involved in the violation plus charges and interest; and

(2) If the producer fails to pay such amount within 30 calendar days from the date of notification, call the applicable loan for all of the honey under loan, plus charges and interest.

(e) For liquidated damages assessed in accordance with paragraph (c)(2) of this section, the county committee will call the loan involved in the violation, and charges plus interest.

(f) The county committee:

(1) May waive the administrative actions taken in accordance with paragraphs (c)(1) and (d) of this section if the county committee determines that:

(i) The violation occurred inadvertently, accidentally, or unintentionally; or

(ii) The producer acted to prevent spoilage of the commodity.

(2) Will not consider the following acts as inadvertent, accidental, or unintentional:

(i) Movement of loan collateral off the farm;

(ii) Movement of loan collateral from one storage structure to another on the farm; and (iii) Consumption of loan collateral.

(g) If there is any violation of the loan agreement or this part, the loan may be terminated in which case there must be a full refund of the loan plus interest and costs.

(h) If the county committee determines that the producer has violated this part or the loan agreement, the county committee will notify the producer in writing that:

(1) The producer has 30 calendar days to provide evidence and information regarding the circumstances that caused the violation, to the county committee, and

(2) Administrative actions will be taken in accordance with paragraphs (d) or (e) of this section.

(i)(1) If a producer:

(i) Makes any fraudulent or misleading representation in obtaining a

loan, maintaining, or settling a loan; or

(ii) Disposes or moves the loan collateral without the approval of CCC, such loan shall become payable upon demand by CCC. The producer is liable for:

(A) The amount of the loan;

(B) Any additional amounts paid by CCC with respect to the loan;

(C) All other costs that CCC would not have incurred but for the fraudulent representation, the unauthorized disposition or movement of the loan collateral;

(D) Interest on such amounts;

(E) Late payment interest as may be provided for in part 1403 of this title; and

(F) Liquidated damages assessed under paragraph (c) of this section; and

(2) Notwithstanding any provisions of the note and security agreement, if a producer has made any such fraudulent or misleading representation to CCC or if the producer has disposed of, or moved, the loan collateral without prior written approval from CCC in accordance with this section, the value of the settlement for such collateral removed by CCC is determined by CCC according to this section.

(j) A producer is personally liable for any damages resulting from honey removed by CCC, containing mercurial compounds or other substances poisonous to humans, animals, or food commodities that are contaminated.

(k) If the amount disbursed under a loan or in settlement thereof exceeds the amount authorized under this part, the producer is personally liable for repayment of such excess and charges, plus interest, and for any other sanction as may be allowed by law.

(l) If the amount collected from the producer in satisfaction of the loan is less than the amount required in accordance with this part, the producer is personally liable for repayment of the amount of such deficiency and charges, plus interest.

(m) In the case of joint MALs, the personal liability for the amounts specified in this section are joint and several on the part of each producer signing the MAL note. Further, each producer who is a party to a joint MAL will be jointly and severally liable for

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any violation of the terms and conditions of the note and security agreement, and the regulations in this part. Each such producer also remains liable for repayment of the entire MAL amount until the MAL is fully repaid without regard to such producer's claimed share in the honey, or MAL proceeds, after execution of the note and security agreement by CCC.

(n) Any or all of the liquidated damages assessed in accordance with the provisions of paragraph (c) of this section may be waived as determined by CCC.

(o) Remedies set out in this section are in addition to remedies the CCC will have through its security interest on honey that secures the repayment of the loan made on the honey.

(p) All remedies provided for in this section or part are in addition to any remedies as may otherwise be provided for in law.

[66 FR 15177, Mar. 15, 2001, as amended at 74 FR 15657, Apr. 7, 2009; 80 FR 140, Jan. 2, 2015]

§ 1434.16 Release of the honey pledged as collateral for a MAL.

(a)(1) A producer may not move or dispose of any honey pledged as collateral for a loan until prior written approval for such removal or disposition has been received from the county committee in accordance with this section.

(2) A producer may at any time obtain a release of all or part of the honey remaining as loan collateral by paying to CCC the amount of the loan and any charges that had been made by CCC to the producer with respect to the quantity of the honey released, plus interest.

(3) When the proceeds of a sale of honey are needed to repay all or part of a farm stored MAL, the producer must request and obtain prior written approval of the county office on a form prescribed by CCC in order to remove a specified quantity of the honey from storage. Any such approval will be subject to the terms and conditions in the applicable form, copies of which may be obtained by producers at the county office. Any such approval will not constitute a release of CCC's security interest in the commodity or release the producer from liability for any

amounts due and owing to CCC with respect to any MAL indebtedness if full payment of such amounts is not received by the county office.

(b) The note and security agreement will not be released until all loan liability has been satisfied in full.

(c) After satisfaction of a MAL, CCC will release CCC's security interest in the honey at the producer's request. The producer is responsible for payment of any fee for such release if such fee can be determined.

[66 FR 15177, Mar. 15, 2001, as amended at 80 FR 140, Jan. 2, 2015]

§ 1434.17 Liquidation of loans.

(a) The producer is required to repay the loan on or before maturity by payment of the amount of loan, plus any charges, plus interest.

(b) If a producer fails to settle the loan in accordance with paragraph (a) of this section within 30 calendar days from the maturity date of such loan, or other reasonable time period as established by CCC, a claim for the loan amount, plus charges, plus interest will be established. CCC will inform the producer before the maturity date of the loan of the date by which the loan must be settled or a claim will be established in accordance with part 1403 of this title.

[66 FR 15177, Mar. 15, 2001, as amended at 80 FR 141, Jan. 2, 2015]

§ 1434.18 Loan repayments.

(a) A honey producer may repay a nonrecourse MAL during the loan period at a rate that is the lesser of:

(1) The principal, plus interest; or

(2) The alternative repayment rate for honey as determined by the Secretary.

(3) In the event of a severe disruption to marketing, transportation, or related infrastructure, the Secretary may modify the repayment rate otherwise applicable under this section for MALs. Any adjustment made to the repayment rate for MALs for honey under this part will be in effect on a short-term and temporary basis, as determined by the Secretary.

(b) To the extent practicable, CCC will determine and announce the alternative repayment rate, based upon the

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prevailing domestic market price for honey, on a monthly basis.

[66 FR 15177, Mar. 15, 2001, as amended at 67 FR 64481, Oct. 18, 2002; 74 FR 15657, Apr. 7, 2009; 80 FR 140, 141, Jan. 2, 2015]

§ 1434.19 Settlement.

(a) The value of the settlement of loans will be made by CCC on the following basis:

(1) With respect to nonrecourse loans, the schedule of premiums and discounts for the commodity:

(i) If the value of the collateral at settlement is less than the amount due, the producer must pay to CCC the amount of such deficiency and charges, plus interest on such deficiency; or

(ii) If the value of the collateral at settlement is greater than the amount due, the excess will be paid to the producer or, if applicable, to the producer and any secured creditor of the producer.

(2) With respect to honey that is delivered from other than an approved warehouse, settlement will be made by CCC on the basis of the basic loan rate that is in effect for the commodity at the producer's customary delivery point, as determined by CCC.

(b) CCC will not assume any loss in quantity or quality of the loan collateral for honey MALs.

[66 FR 15177, Mar. 15, 2001, as amended at 80 FR 140, 141, Jan. 2, 2015]

§ 1434.20 Foreclosure.

(a) Upon maturity and nonpayment of the loan, title to the unredeemed honey securing the loan will vest in CCC.

(b) If the total amount due on a loan or the unpaid amount of the note and charges, plus interest is not satisfied upon maturity, CCC may remove the honey from storage and assign, transfer, and deliver the honey or documents evidencing title thereto at such time, in such manner, and upon such terms as CCC may determine at public or private sale. Any such disposition may also be effected without removing the honey from storage. The honey may be processed before sale and CCC may become the purchaser of the whole or any part of the honey at either a public or private sale.

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(1) If the value of the collateral computed at settlement is less than the amount due, the producer must pay to CCC the amount of such deficiency and charges, plus interest on such deficiency and CCC may take any action against the producer to recover the deficiency; or

(2) If the proceeds received from the sale of the honey so computed are greater than the sum of the amount due plus any cost incurred by CCC in conducting the sale of the honey, such excess will be paid to the producer or, if applicable, to any secured creditor of the producer.

[66 FR 15177, Mar. 15, 2001, as amended at 80 FR 141, Jan. 2, 2015]

§ 1434.21 Loan deficiency payments.

(a) LDPs will be available for honey.

(b) In order to be eligible to receive LDP for a crop of honey, the producer must:

(1) Comply with all of the program requirements to be eligible to obtain loan in accordance with this part;

(2) Agree to forego obtaining such loans;

(3) Submitted a request for a honey LDP on the form as CCC prescribes.

(4) Comply with §§ 1434.7 and 1434.8 or provide evidence of production as determined by CCC for such quantity; and

(5) Otherwise comply with all program requirements.

(c) The LDP rate for a crop will be the amount by which the MAL rate exceeds the rate at which CCC has announced that producers may repay their MAL as specified in § 1434.18.

(d) The LDP applicable to a crop of honey will be computed by multiplying the LDP rate, as determined as specified in paragraph (c) of this section, by the quantity of honey the producer is eligible to pledge as collateral for a price support MAL for which an LDP is requested.

(e) Notwithstanding any provisions in this section, LDPs may be based on 100 percent of the net quantity specified on acceptable evidence of disposition of the honey certified as eligible for an LDP if CCC determines that such quantity represented the quantity for the number of containers of honey

initially certified for the LDP when the payment was made.

(f) When applying for an individual LDP, each producer agrees:

(1) The producer will provide correct, accurate, and truthful certifications and representations of the loan quantity and all other matters of fact and interest when submitting a request for a honey LDP; and

(2) That violation of the terms and conditions of this part will cause harm or damage to CCC in that funds may be disbursed to the producer for a LDP quantity that is not actually in existence or for a quantity for which the producer is not eligible.

(g) For the purposes of this section, violations include any failure to comply with this part or the loan agreement, including but not limited to any incorrect certification.

[66 FR 15177, Mar. 15, 2001, as amended at 67 FR 64481, Oct. 18, 2002; 74 FR 15657, Apr. 7, 2009; 80 FR 141, Jan. 2, 2015]

§ 1434.22 Death, incompetency, or disappearance; appeals; other loan provisions.

(a) In the case of death, incompetency, or disappearance of any producer who is entitled to the payment of any sum in settlement of a loan, payment will, upon proper application to the county office that made the loan, be made to the persons who would be entitled to such producer's share under the regulations contained in part 707 of this title. Applications for loans may be made upon application of a representative of the producer as allowed under standard practice for farm programs.

(b) Appeals of adverse decisions made under this part will be subject to the provisions of 7 CFR parts 11 and 780.

[66 FR 15177, Mar. 15, 2001, as amended at 67 FR 64481, Oct. 18, 2002. Redesignated at 74 FR 15657, Apr. 7, 2009; 80 FR 141, Jan. 2, 2015]

PART 1435—SUGAR PROGRAM

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